

REMARKS

Claims 13-18, 26, 28-30, 32-39, 41, 43-58, and 61-64 are pending. Claims 13, 15, 37, and 39 are in independent form. Reconsideration and withdrawal of the present rejection is respectfully requested.

In the Office action mailed March 19, 2008, claims 13 and 37 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,732,708 to Nau et al (hereinafter "Nau").

As amended, claim 13 relates to a method that includes receiving a cardiac biological signal that includes information describing events, classifying the events into two or more categories based on cardiac conditions indicated by the information describing each event, determining a merit of the information describing each event based on one or more of a severity of the cardiac condition associated with the event and a quality of the information describing the event, transmitting, for medical purposes, information describing a first proper subset of the events in a first of the categories that have merits meeting a first merit criterion to a remote medical receiver, discarding information describing a second proper subset of the events in the first of the categories that have merits that fail to meet the first merit criterion, transmitting, for medical purposes, information describing a third proper subset of the events in a second of the categories that have merits meeting a second merit criterion to the remote medical receiver, and discarding information describing a fourth proper subset of the events in the second of the categories that have merits that fail to meet the second merit criterion.

Events comprise periods in time when an information content of the cardiac biological signal is of increased relevance to a particular purpose, and the events are demarcated by periods of time that are not of increased relevance to the particular purpose. The second category differs from the first category.

Claim 37 relates to an article that includes one or more machine-readable media storing instructions operable to cause one or more machines to perform operations. The operations are related to the activities recited in claim 13.

Nau neither describes nor suggests that events be classified into two different categories based on cardiac conditions indicated by the information describing each event and that information describing subsets of the events that meet merit criteria in the two different categories is to be transmitted to a remote medical receiver and that information describing subsets of the events in these two different categories that have merits that fail to meet the merit criteria is to be discarded, as recited in claims 13 and 37.

In this regard, Nau describes two situations in which information is discarded. For example, Nau describes that information can be written over when the capacity of a data record is filled (i.e., the data “wraps around”). *See, e.g., Nau*, col. 10, line 63-col. 11, line 12. However, classification of the information in this instance (i.e., in the data record or out of the data record) is not based on cardiac conditions indicated by the information describing each event. Moreover, there is no description or suggestion that information describing subsets of the events classified in both of these categories is both transmitted and discarded, as recited in claims 13 and 37. Instead, all of the information in the data record is understood to be transmitted, and all of the information written over in the data record is understood to be discarded.

Nau also discards information, for example, if an arrhythmic event is detected and initially diagnosed as an incipient arrhythmic episode, but a return to sinus rhythm is detected before any therapy is delivered. *See, e.g., Nau*, col. 9, line 52-61.

Even if the diagnosis of an arrhythmic event as an incipient arrhythmic episode were to be considered a classification of the information based on an indicated cardiac condition (a contention with which applicant does not agree), claims 13 and 37 would still not be anticipated by Nau. In this regard, all of the events diagnosed as an incipient arrhythmic episode are understood to be discarded. There is thus no description or suggestion that information describing subsets of the events classified in two categories is both transmitted and discarded, as recited in claims 13 and 37.

Accordingly, claims 13 and 37 are not anticipated by Nau. Applicant respectfully requests that the rejection of claims 13, 37, and the claims dependent therefrom be withdrawn.

Claims 15 and 39 were rejected under 35 U.S.C. § 102(b) as anticipated by Nau. As shown above, claims 15 and 39 have been placed in independent form.

As amended, claim 15 relates to a method that includes receiving a cardiac biological signal that includes information describing events, determining a merit of information describing each event based on both the severity of the cardiac condition indicated by the information describing the event and the quality of the information describing the event, transmitting, for medical purposes, information describing a first proper subset of the events that have merits meeting a merit criterion to a remote medical receiver, and discarding information describing a second proper subset of the events that have merits that fail to meet the merit criterion. Events comprise periods in time when an information content of the cardiac biological signal is of increased relevance to a particular purpose, and the events are demarcated by periods of time that are not of increased relevance to the particular purpose.

Claim 39 relates to an article that includes one or more machine-readable media storing instructions operable to cause one or more machines to perform operations. The operations are related to the activities recited in claim 15.

The rejections of claims 15 and 39 are understood to contend that the diagnosis of an arrhythmic event as an incipient arrhythmic episode constitutes a determination of the merit of an event based on the severity of the cardiac condition indicated by the information describing the event. *See Office action mailed March 19, 2008*, page 3 (contending that the merit of an event is determined by whether or not the event is actually an arrhythmia needing correction and that the merit of the information is inherently based on the severity of the cardiac condition.)

Even if this contention were true, claims 15 and 39 are not anticipated by Nau. In this regard, claims 15 and 39 both recite that a merit of information describing each event is determined based on *both* the severity of the cardiac condition indicated by the information describing the event *and* the quality of the information describing the event. Nau neither describes nor suggests such a determination. Indeed, Nau is not understood to involve the quality of the information describing an event in his system at all.

Accordingly, claims 15 and 39 are not anticipated by Nau. Applicant respectfully requests that the rejection of claims 15, 39, and the claims dependent therefrom be withdrawn.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as

an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply the two-month extension of time fee and fee for filing an information disclosure statement, along with any other charges or credits, to deposit account 06-1050.

Respectfully submitted,

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